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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,917	02/08/2001	Clay H. Fisher	50N3695.01/1582	9084
24272	7590	05/13/2010	EXAMINER	
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ART UNIT		PAPER NUMBER		
2622			MAIL DATE	
			05/13/2010	DELIVERY MODE
				PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/781,917

Filing Date: February 08, 2001

Appellant(s): FISHER ET AL.

Gregory J. Koerner
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/19/2010 appealing from the Office action mailed 7/10/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 1, 4-9, 11, 13-15, 17, 21, 24-29, 31, 33-35, 37, 41-42, 47-48, and 50-52 stand rejected under 35 U.S.C. § 102(b). The rejections of claims 1, 4-9, 11, 13-15, 17, 21, 24-29, 31, 33-35, 37, 41-42, 47-48, and 50-52 are being appealed, but the rejections of claims 41, 42, and 51 are not being appealed. Claims 2-3, 10, 12, 16, 18-20, 22-23, 30, 32, 36, 38-40, 43-46, 49, and 53-59 stand rejected under 35 U.S.C. § 103(a). The rejections of claims 2-3, 10, 16, 18-20, 22-23, 30, 36, 38-40, 43-46, 49, and 53-58 are being appealed, but the rejection of claim 59 is not being appealed.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner notes that the list of the appealed claims contained in the Appendix to the appellant's brief is correct. However, claim 43, which is being appealed, is not contained in the Appendix of the brief filed on 1/19/2010. The examiner notes however, claim 43, which is being appealed, is contained in the Appendix of the brief filed on 12/10/2009.

(8) Evidence Relied Upon

6,396,537	Squilla et al.	11-1997
6,006,039	Steinberg et al.	9-2003
6,930,709	Creamer et al.	8-2005
6,950,130	Qian	9-2005
6,223,190	Aihara et al.	4-2001
6,177,957	Anderson	1-2001
5,477,264	Sarbadhikari et al.	12-1995
6,195,511	Harada	2-2001
6,721,001	Berstis	4-2004
6,894,694	Silverbrook et al.	5-2005
6,731,305	Park et al.	5-2004
6,968,058	Kondoh et al.	11-2005
5,717,496	Satoh et al.	2-1998
6,535,243	Tullis	3-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-9, 11, 13-15, 17, 21, 24-29, 31, 33-35, 37, 47-48, 50, and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Squilla et al. US 6,396,537.

Re claims 1 and 21, Squilla discloses a system for manipulating image data capable of performing a method for manipulating image data, comprising the steps of: storing one or more ancillary data files (graphics, photos, video/audio clips, etc.) in a data source (10), said data source (10) being implemented as a computer (14) in a distributed computer network of multiple remote intercommunicating computers (col. 3, lines 57-63; figure 2); capturing said image data with an imaging device (24), said imaging device (24) being physically remote from said computer (14) (figure 1; col. 3, line 47-col. 4, line 25); transferring said one or more ancillary data files (graphics, photos, etc.) in an ancillary data flow from said data source (10) directly to said imaging device (24) by using an ancillary data module (microprocessor 42) (col. 4, lines 3-25; col. 4, line 54-col. 5, line 17). Squilla further discloses manipulating the image data with one or more ancillary data files (graphics, photos, etc.), said ancillary data module (42) performing on-line management procedures during which a system user interactively and manually utilizes the imaging device (24) to remotely view the ancillary data files

(graphics, photos, etc.) that are stored on the computer (14) (content can be viewed using the preview function of the LCD 50), to remotely manipulate the ancillary data files (graphics, photos, etc.) that are stored on the computer (14), to then remotely select the ancillary data files (graphics, photos, etc.) that are stored on the computer (14) and to manually trigger a download of the ancillary data files (graphics, photos, etc.) from the computer (14) to the imaging device (24). Squilla specifically discloses that a user can view content information or a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that ancillary data files are selected and downloaded through selection decisions that are capable of being made in all instances only by a system user (the camera of the first embodiment disclosed by Squilla allows a user to view and select ancillary data files for downloading through the use of a user interface 31). In addition, Squilla discloses that alternatively, a URL address for the user selected data can be stored in the memory and the data may be downloaded via the internet at a later time (col. 5, lines 11-17). Thus, it can be seen that Squilla further discloses that selection decisions may be made in all instances prior to downloading the ancillary data files. In addition, Squilla discloses that the on-line management procedures occurring while an active bi-directional electronic communication path currently exists from the imaging device (24) to the computer (14) through the distributed computer network (col. 5, lines 1-17; col. 8, line 39-col. 9, line 7; figures 4 and 5), the ancillary data files (graphics, photos, etc.) including one or more image data files that the imaging device (24)

combines with the image data to create a new composite image (col. 5, lines 1-2; col. 6, lines 57-65).

Re claims 4 and 24, Squilla discloses that the imaging device (24) is a digital still camera device (figure 1; col. 4, lines 3-25).

Re claims 5 and 25, Squilla discloses that the ancillary data files (graphics, photos, audio/video) are transferred from the data source (10) to the imaging device (24) by utilizing a wireless transmission process (wireless link 60) (figure 1; col. 3, line 47-col. 4, line 25).

Re claims 6 and 26, Squilla further discloses that image data is manipulated by combining selected ones of the ancillary data files (graphics, photos, audio/video) with said image data to generate new composite data (the ancillary data is stored in the memory (48) along with the digital image) (col. 5, lines 1-22; col. 6, lines 57-65).

Re claims 7 and 27, Squilla further discloses that the imaging device (24) includes a capture subsystem (CCD 44) and a control module, said control module having a central processing unit, a memory (microprocessor 42), a viewfinder (LCD 50), and one or more input/output interfaces (wireless transceiver (30)) (col. 4, lines 3-44; figure 1).

Re claims 8 and 28, Squilla discloses a memory device (microprocessor 42) that includes an application software program (col. 3, lines 42-46), an operating system, an ancillary data module including ancillary data files, a display manager (LCD 50) (col. 4, lines 3-44), data storage (memory 48) for storing image data, and one or more camera menus (display content information and lists) for display upon a viewfinder (LCD 50) (col. 5, lines 1-22).

Re claims 9 and 29, Squilla discloses that the one or more input/output interfaces include a wireless communications interface (wireless transceiver 30) (figure 1; col. 4, lines 3-44).

Re claims 11 and 31, Squilla discloses that a user may view a list of transferred content that is indicative of the content and the user may select the desired content in order to add the content (ancillary data) to images captured by the camera (24) (col. 5, lines 1-22). Therefore, it can be seen that Squilla discloses that the ancillary data files each include a data portion (graphics, photos, audio/video) and a corresponding descriptor tag (the information regarding the content that is displayed as a list for user selection) that is analyzed to identify, characterize, and categorize a corresponding one of the ancillary data files.

Re claims 13 and 33, Squilla further discloses that the data source (10) is configured to facilitate interactively accessing, manipulating, and downloading the one

or more ancillary data files (graphics, photos, audio/video) to the imaging device (24) by the system user (col. 5, lines 1-17; col. 8, line 39-col. 9, line 7).

Re claims 14 and 34, Squilla further discloses that the imaging device (24) establishes an active bi-directional communication path (wireless link 60) to the data source (10), the active communication path alternately being established by both an automatic connection protocol (col. 3, line 47-col. 4, line 25) and a user-initiated protocol (col. 8, line 39-col. 9, line 7).

Re claims 15 and 35, Squilla further discloses that on-line management procedures are performed while the active bi-directional communication path (wireless link 60) is available, the one or more on-line management procedures including an ancillary data file download procedure (col. 5, lines 1-22; col. 8, line 39-col. 9, line 7). It is further noted by the Examiner that this claim, as currently written, only requires a minimum of one on-line management procedure, by way of the limiting language of “one or more on-line management procedures”.

Re claims 17 and 37, Squilla further discloses that the imaging device (24) terminates active bi-directional communication (wireless link 60) to the data source (10) when the on-line management procedures have been completed, the active communication path being alternately terminated by both an automatic termination

Art Unit: 2622

protocol (col. 3, line 47-col. 4, line 25) and a user-initiated termination protocol col. 8, line 39-col. 9, line 7).

Re claim 47, Squilla further states that an ancillary data module (microprocessor 42) performs an off-line management procedure for the ancillary data files (graphics, photos, etc.) that have been downloaded from the data source (10), the off-line management procedure including the ancillary data module (42) analyzing descriptors from the ancillary data files and coordinating corresponding off-line file management procedures by alternately utilizing both an automatic process and an interactive process with a system user, the off-line file management procedures including a file descriptor identification procedure by which the ancillary data module (42) categorizes the ancillary data files (graphics, photos, etc.) and the imaging device (24) updating camera menus to including the ancillary data files (graphics, photos, etc.) to enable a system user to utilize the ancillary data files (graphics, photos, etc.) (col. 4, lines 3-25; col. 4, line 54-col. 5, line 17).

Re claim 48, Squilla discloses that the on-line management procedures only occur while the imaging device (24) is in an on-line state that permits bi-directionally communicating through the distributed computer network directly to the computer (14 of the image spot 10)(col. 4, line 54-col. 5, line 17).

Re claim 50, Squilla discloses that a system user may utilize the ancillary data module (microprocessor 42) to locally view displayed images of the ancillary data files (graphics, photos, etc.) during on-line management procedures (col. 5, lines 1-17; col. 8, lines 39-56).

Re claim 52, Squilla states that the ancillary data module may be implemented as a software program (col. 3, lines 42-46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. US 6,396,537 in view of Creamer et al. US 6,930,709.

Re claims 2 and 22, Squilla discloses all of the limitations of claims 2 and 22 (see the 102(b) rejection to claims 1 and 21 supra), except for explicitly teaching a system wherein said data source includes an image station site on an Internet network.

The Examiner cites as supporting reference, Creamer et al. (US 6,930,709- filed on December 3, 1998), to illustrate the related equivalency of a computer in a distributed computer network being employed as “an image station site on an Internet network”, a concept and equivalency that is well known and expected in the art. Creamer details a general purpose personal computer, incorporated in concert with the World Wide Web, that has the ability to place an image on the Internet, as well as states that the computer is usually dedicated to serving the camera (col. 1, lines 16-65.) Therefore, this reference is presented to support what is well known with respect to a computer dedicated and used for image data and connected to the Internet, being equivalent in naming convention to an image station site on an Internet network. It would have been obvious to one of ordinary skill in the art at the time of the invention for the computer in a distributed computer network to be an image station on an Internet network for the purposes of having a dedicated general purpose computer employed for image/camera related tasks such as manipulating image data, and which can be accessed via remote locations connected throughout the world wide web or an equivalent distributed network for the purpose of manipulating image data. (It is also noted that Applicants define the Internet as a distributed network (see Abstract), and that claim 2 serves to further limits the data source of claim 1, which is explicitly implemented as a computer in a distributed computer network.)

Claims 3, 23, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. US 6,396,537 in view of Qian US 6,950,130 and further in view of Aihara et al. US 6,223,190.

Re claims 3 and 23, Squilla discloses all the limitations of claims 3 and 23 (see the 102(b) rejection to claims 1 and 21 supra), except for teaching a system wherein said ancillary data files include an image background file and an Internet webpage file. However, Squilla does disclose that a URL address can be stored in the memory (col. 5, lines 11-13).

Qian teaches the both the creation of background files and the replacement of backgrounds in captured images (Abstract; col. 1 lines 43-53; claim 1.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include background files as taught by Qian with the system as taught by Squilla, so that the user is provided with another ancillary data file merging option, in addition to templates and overlays, for the purpose of enhancing the images captured by the user for particular situations, as well as to expand the potential functionality of the imaging device.

Furthermore, Aihara teaches Internet webpage files employed as ancillary data files (col. 9 lines 40-42, col. 10 line 17 – col. 12 line 36.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ancillary data files as taught by Aihara, with the system as taught by Squilla and Qian, for the purpose

of enhancing the images captured by the user for particular situations, as well as to expand the potential functionality of the imaging device.

Re claim 46, Squilla discloses all the limitations of claim 31 above. However, although Squilla discloses that ancillary data files may be transmitted to a camera and stored with captured images it fails to disclose that the ancillary data files include a background category or an Internet web page category.

Qian teaches both the creation of background files and the replacement of backgrounds in captured images (Abstract; col. 1 lines 43-53; claim 1.) Based on this, it would have been obvious to one of ordinary skill in the art at the time of the invention to include background files, and an associated category for them within the system as taught by Squilla, so that the user is provided with another ancillary data file merging option, in addition to templates and overlays, for the purpose of enhancing the images captured by the user for particular situations, as well as to expand the potential functionality of the imaging device, all of which being found within an organized (categorized) format to facilitate their use.

Further, Aihara teaches Internet webpage files employed as ancillary data files (col. 9 lines 40-42, col. 10 line 17 – col. 12 line 36.) It would also have been obvious to one of ordinary skill in the art at the time of the invention to include the ancillary data files, and an associated category for them within the system as taught by Squilla and Qian, so that the user is provided with another ancillary data file merging option, in addition to templates, overlays, and backgrounds, for the purpose of enhancing the

images captured by the user for particular situations, as well as to expand the potential functionality of the imaging device, all of which being found within an organized (categorized) format to facilitate their use.

Claims 10, 18-20, 30 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. US 6,396,537 and further view of Anderson US 6,177,957.

Re claims 10 and 30, Squilla discloses all of the limitations of claims 1 and 21 above. Additionally, Squilla discloses that the camera (24) includes a download manager for transferring ancillary data files (graphics, photos, audio/video) from the data source (10) to the imaging device (24) and analyzing the ancillary data files (content data is wirelessly transmitted from the data source 10 to the camera 24 via a wireless link 60) (col. 4, line 54-col. 5, line 4), an editing module for combining the one or more ancillary data files with image data (content data is selected and stored with captured image data) (col. 5, lines 4-22), and miscellaneous routines that include a conversion routine for translating one or more ancillary data files into a compatible format (the content data is stored together with captured image data so it is inherent that the content data must be in a compatible format) (col. 5, lines 1-22). However, although the Squilla reference discloses all of the above limitations it fails to specifically disclose that the camera includes a data manager for controlling and reorganizing the ancillary data files.

Nevertheless, Anderson is found to teach dynamically updating software driven features in an electronic imaging device, in which the user may supplement the baseline application programming of the imaging device (col. 2 lines 18-25.) The system of Anderson provides a procedure for updating of camera menus to reflect the addition of one or more ancillary data files, thereby enabling a system user to utilize one or more of the ancillary data files, (col. 8 line - col. 9 line 19.) The procedure of Anderson further teaches a file descriptor identification procedure by which said ancillary data module categorizes said one or more ancillary data files (figs. 7 and 8; col. 8 line 1 – col. 9 line 19.) Although Anderson employs hot mounted files, Anderson demonstrates a teaching of a menu reorganization procedure for files made accessible to the imaging device. When taken in light of the system as taught by Squilla, which includes ancillary data files selected and downloaded to the imaging device from a computer in a distributed computer network, one of ordinary skill in the art at the time of the invention would have found it obvious to add the functionality of a user accessible menu which was appropriately updated to reflect the newly added software enhancements available, so that the user may fully utilize all the imaging device's available functionality. It would have been further obvious to one of ordinary skill in the art at the time of the invention to employ a file descriptor identification procedure similar to that taught by Anderson, with the system as taught by Squilla, in order to correctly identify and implement the ancillary data files, and their corresponding functionality, which have been added to increase the available functionality of the imaging device, based on the selected files previously added via download from a computer in a distributed computer network.

Re claims 18 and 38, Squilla discloses all the limitations of claims 18 and 38 (see the 102(b) rejection to claims 17 and 37 supra), except for teaching a system wherein said ancillary data module performs an off-line management procedure for said one or more ancillary data files that have been downloaded from said data source, said off-line management procedure including a file descriptor identification procedure by which said ancillary data module categorizes said one or more ancillary data files, said imaging device responsively updating camera menus to include said one or more ancillary data files to thereby enable a system user to utilize said one or more ancillary data files. It is noted that Squilla does teach on-line management of ancillary data files, in that the identified files may be selectable chosen by the user when connected to the data source (col. 8, line 39-col. 9, line 7; figures 4 and 5)

Nevertheless, Anderson is found to teach dynamically updating software driven features in an electronic imaging device, in which the user may supplement the baseline application programming of the imaging device (col. 2 lines 18-25.) The system of Anderson provides a procedure for updating of camera menus to reflect the addition of one or more ancillary data files, thereby enabling a system user to utilize one or more of the ancillary data files, (col. 8 line - col. 9 line 19.) The procedure of Anderson further teaches a file descriptor identification procedure by which said ancillary data module categorizes said one or more ancillary data files (figs. 7 and 8; col. 8 line 1 – col. 9 line 19.) Although Anderson employs hot mounted files, Anderson demonstrates a teaching of a menu reorganization procedure for files made accessible to the imaging device.

When taken in light of the system as taught by Squilla, which includes ancillary data files selected and downloaded to the imaging device from a computer in a distributed computer network, one of ordinary skill in the art at the time of the invention would have found it obvious to add the functionality of a user accessible menu which was appropriately updated to reflect the newly added software enhancements available, so that the user may fully utilize all the imaging device's available functionality. It would have been further obvious to one of ordinary skill in the art at the time of the invention to employ a file descriptor identification procedure similar to that taught by Anderson, with the system as taught by Squilla, in order to correctly identify and implement the ancillary data files, and their corresponding functionality, which have been added to increase the available functionality of the imaging device, based on the selected files previously added via download from a computer in a distributed computer network. As to the occurrence of the procedure taught above, in conjunction with a teaching by Anderson of the procedure occurring within the imaging device (fig. 8), it would also have been obvious to one of ordinary skill in the art that the procedure of the system as taught by Squilla and Anderson be performed off-line, so that once the selected files had been downloaded, the imaging device is free to operate as a physically autonomous device, having no further need to be tethered or on-line with the computer, and free to perform the procedure at locations other than those accessible to the computer and at times when on-line accessibility is limited or no longer available.

Re claims 19 and 39, Squilla and Anderson teach all the limitations of claims 19 and 39 (see the 103(a) rejection to claims 18 and 38 supra), including teaching a system wherein said off-line management procedure includes a file reorganization procedure (Anderson: col. 9 lines 1-6) and a file deletion procedure (Anderson: col. 9 line 55 – col. 10 line18).

Re claims 20 and 40, Squilla and Anderson teach all the limitations of claims 20 and 40 (see the 103(a) rejection to claims 18 and 38 supra), including teaching a system wherein said imaging device utilizes an editing module for combining the one or more ancillary data files with image data (content data is selected and stored with captured image data) to create a new composite image (col. 5, lines 4-22).

Claims 12, 32, 49 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. and further in view of Aihara et al. US 6,223,190.

Re claims 12 and 32, Squilla discloses all the limitations of claims 12 and 32 (see the 102(b) rejection to claims 1 and 21 supra), including teaching a system wherein said one or more ancillary data files are created by a system manufacturer utilizing ancillary-data production equipment (col. 4, lines 54-67). However, Squilla does not teach a system wherein said one or more ancillary data files are also created by a system user on a local computer device.

Nevertheless, Aihara teaches that a user can create the ancillary data file (col. 7 lines 33-38.) It would have been obvious to one of ordinary skill in the art at the time of the invention to allow for a user to create the ancillary data file, in conjunction with the system as taught by Squilla in which ancillary data files are created by a system manufacturer, so that a user may not only have the ability to employ the ancillary data files provided by a manufacturer, but also to create their own ancillary data files in order to give the result its distinctive appearance (Aihara: col. 7 lines 36-38.) It is further noted that the specification at lines 1-8 of page 15, provides for the creation of ancillary data files by the system user in one embodiment, and alternatively, by a manufacturer in another.

Re claim 49, Squilla discloses all of the limitations of claim 48 above. However, although the Squilla reference discloses a wireless distributed computer network capable of allowing a camera to wirelessly transmit and receive ancillary data files it fails to state that the camera is capable of wirelessly connecting to remote devices via an internet network.

Aihara discloses a digital camera that is capable of wirelessly connecting to remote devices. Aihara states that the digital camera (110) is capable of connecting to an Internet network (750) (col. 13, lines 42-67). Therefore, it would have been obvious for one skilled in the art to have been motivated to connect the camera disclosed by Squilla to an internet network as disclosed by Aihara. Doing so would provide a means

for expanding the capabilities of the camera by allowing the camera to transmit and receive information from multiple remote devices.

Re claim 53, Squilla discloses a system for manipulating image data capable of performing a method for manipulating image data, comprising the steps of: storing one or more ancillary data files (graphics, photos, video/audio clips, etc.) in a data source (10), said data source (10) being implemented as a computer (14) in a distributed computer network of multiple remote intercommunicating computers (col. 3, lines 57-63; figure 2); capturing said image data with an imaging device (24), said imaging device (24) being physically remote from said computer (14) (figure 1; col. 3, line 47-col. 4, line 25); transferring said one or more ancillary data files (graphics, photos, etc.) in an ancillary data flow from said data source (10) directly to said imaging device (24) by using an ancillary data module (microprocessor 42) (col. 4, lines 3-25; col. 4, line 54-col. 5, line 17). Squilla further discloses manipulating the image data with one or more ancillary data files (graphics, photos, etc.), said ancillary data module (42) performing on-line management procedures during which a system user interactively and manually utilizes the imaging device (24) to remotely view the ancillary data files (graphics, photos, etc.) that are stored on the computer (14) (content can be viewed using the preview function of the LCD 50), to remotely manipulate the ancillary data files (graphics, photos, etc.) that are stored on the computer (14), to then remotely select the ancillary data files (graphics, photos, etc.) that are stored on the computer (14) and to manually trigger a download of the ancillary data files (graphics, photos, etc.) from the

computer (14) to the imaging device (24). Squilla specifically discloses that a user can view content information or a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that ancillary data files are selected and downloaded through selection decisions made only by a system user (through user interface 31). In addition, Squilla discloses that alternatively, a URL address for the user selected data can be stored in the memory and the data may be downloaded via the internet at a later time (col. 5, lines 11-17). Thus, it can be seen that Squilla further discloses that selection destinations may be made prior to downloading the ancillary data files. In addition, the on-line management procedures occurring while an active bi-directional electronic communication path currently exists from the imaging device (24) to the computer (14) through the distributed computer network (col. 5, lines 1-17; col. 8, line 39-col. 9, line 7; figures 4 and 5), the ancillary data files (graphics, photos, etc.) including one or more image data files that the imaging device (24) combines with the image data to created a new composite image (col. 5, lines 1-2; col. 6, lines 57-65). However, although the Squilla reference discloses a wireless distributed computer network capable of allowing a camera to wirelessly transmit and receive ancillary data files it fails to state that the camera is capable of wirelessly connecting to remote devices via an internet network.

Aihara discloses a digital camera that is capable of wirelessly connecting to remote devices. Aihara states that the digital camera (110) is capable of connecting to an Internet network (750) (col. 13, lines 42-67). Therefore, it would have been obvious

for one skilled in the art to have been motivated to connect the camera disclosed by Squilla to an internet network as disclosed by Aihara. Doing so would provide a means for expanding the capabilities of the camera by allowing the camera to transmit and receive information from multiple remote devices.

Re claim 54, Squilla states that the ancillary data module may be implemented as a software program (col. 3, lines 42-46).

Re claim 55, Squilla further states that an ancillary data module (microprocessor 42) performs an off-line management procedure for the ancillary data files (graphics, photos, etc.) that have been downloaded from the data source (10), the off-line management procedure including the ancillary data module (42) analyzing descriptors from the ancillary data files and coordinating corresponding off-line file management procedures by alternately utilizing both an automatic process and an interactive process with a system user, the off-line file management procedures including a file descriptor identification procedure by which the ancillary data module (42) categorizes the ancillary data files (graphics, photos, etc.) and the imaging device (24) updating camera menus to including the ancillary data files (graphics, photos, etc.) to enable a system user to utilize the ancillary data files (graphics, photos, etc.) (col. 4, lines 3-25; col. 4, line 54- col. 5, line 17).

Claims 16 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. in view of Sarbadhikari et al. US 5,477,264.

Re claims 16 and 36, Squilla discloses all of the limitations of claims 15 and 35 above. However, although the Squilla reference discloses downloading ancillary data files from a data source to a camera it fails to specifically state that a special instruction file that corresponds to an ancillary data file is downloaded with the ancillary data files.

However, Sarbadhikari discloses a system wherein an ancillary data module downloads a special instruction file that corresponds to a selected ancillary data file, said special instruction file including information that instructs said imaging device how to correctly utilize said selected ancillary data file, said special instruction file being formatted as an embedded instruction file that is embedded in said selected ancillary data file (col. 10 lines 43-50) and also as a discrete instruction file that is not embedded in said selected ancillary data file (col. 9 line 51 – col. 10 line 18; col. 10 lines 43-50). Therefore, it would have been obvious for one skilled in the art to have been motivated to download a special instruction file together with a corresponding ancillary data file as disclosed by Sarbadhikari in the system disclosed by Squilla. Doing so would provide a means for appending instruction information to image data that is captured by a digital camera.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. and further in view of Harada US 6,195,511.

Re claim 43, Squilla discloses all the limitations of claim 43 (see the 102(b) rejection to claims 1/21 supra), except wherein a data manager from said ancillary data module deletes a local ancillary data file in said imaging device after detecting a file type of a newly-downloaded one of said ancillary data files.

Nevertheless, Harada is found to teach the rewriting of camera programming upon detecting that a newer version has been downloaded (col. 6 line 28 – col. 7 line 7; in which the rewriting of a file is determined by the examiner to be equivalent to a deletion because the original file is ultimately replaced by a newer version of the file.) It would have been obvious to one of ordinary skill in the art at the time of the invention to delete a local file after detecting a newer file as taught by Harada with the method as taught by Squilla, in order to provide a method updating camera programming while maintaining minimum/lower memory requirements.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. in view of Aihara et al. further in view of Qian US 6,950,130 further in view of Berstis US 6,721,001 and further in view of Silverbrook et al. US 6,894,694.

Re claim 44, the Squilla reference discloses all of the limitations of claim 21 above. However, although the Squilla reference discloses a wireless distributed computer network capable of allowing a camera to wirelessly transmit and receive

ancillary data files it fails to state that the camera is capable of wirelessly connecting to remote devices via an internet network.

Aihara discloses a digital camera that is capable of wirelessly connecting to remote devices. Aihara states that the digital camera (110) is capable of connecting to an Internet network (750) (col. 13, lines 42-67). Therefore, it would have been obvious for one skilled in the art to have been motivated to connect the camera disclosed by Squilla to an internet network as disclosed by Aihara. Doing so would provide a means for expanding the capabilities of the camera by allowing the camera to transmit and receive information from multiple remote devices.

Aihara also teaches Internet webpage files employed as ancillary data files (col. 9 lines 40-42, col. 10, line 17 – col. 12 line 36). However, neither reference expressly provides for a background file of visual background data for combining with said image data, or template files including an animated template file and a voice-annotated template file.

Qian teaches the both the creation of background files and the replacement of backgrounds in captured images (Abstract; col. 1 lines 43-53; claim 1.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include background files as taught by Qian with the system as taught by Squilla and Aihara, so that the user is provided with another ancillary data file merging option, in addition to templates and overlays, for the purpose of enhancing the images captured by the user for particular situations, as well as to expand the potential functionality of the imaging device.

Berstis is found to disclose voice annotation programming (fig. 3 indicator 304, col. 4 lines 5-8.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include programming for a voice-annotation as taught by Berstis as another data file within the system as taught by Squilla, Aihara, and Qian, so that the user is provided with another ancillary data file option, in addition to templates, overlays, and backgrounds, for the purpose of enhancing the images captured by the user for particular situations, as well as to expand the overall potential functionality of the imaging device.

Silverbrook is found to disclose animation programming (col. 4 line 64 – col. 5 line 6.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include programming for animation as taught by Silverbrook as another data file within the system as taught by Squilla, Aihara, Qian, and Berstis so that the user is provided with another ancillary data file option, in addition to templates, overlays, backgrounds, and voice-annotations, for the purpose of enhancing the images captured by the user for particular situations, as well as to further expand the overall potential functionality of the imaging device.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. US 6,396,537 in view of Park et al. US 6,731,305 in view of Kondoh et al. US 6,968,058 and further in view of Satoh et al. US 5,717,496.

Re claim 45, Squilla discloses all of the limitations of claim 45 (see the 102(b) rejection to claims 11/31 supra), except for expressly disclosing wherein said descriptor tag includes a data format, a data type, a data structure, and a data size.

Nevertheless, it is well known to those skilled in the art to include descriptor information associated with data information, as disclosed by Park (data structure and size, col. 4 lines 22-24), Kondoh (data format, col. 4 lines 60-64), and Satoh (data type, fig. 50, col. 26 lines 57-66.) Based on these teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for a wide breadth of information to be includable with a descriptor tag so expand embedded run information and other related pre-processed information.

Claims 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. in view of Aihara et al. further in view of Tullis US 6,535,243.

Re claim 56, the combination of the Squilla and Aihara references discloses all of the limitations of claim 53 above. Additionally, Squilla states that the imaging device (24) is a digital camera (col. 4, lines 3-25). However, the combination of Squilla and Aihara fails to specifically state that the digital camera is capable of capturing video images as well as capturing still images. However, Tullis discloses a wireless hand-held digital camera that is capable of capturing both still images and video images (col. 7, line 66-col. 8, line 6). Therefore, it would have been obvious for one skilled in the art

to have been motivated to include both still image capturing capability and video image capturing capability as disclosed by Tullis in the digital camera disclosed by Squilla in view of Aihara. Doing so would provide a means for allowing a user of the camera to capture both still images and video images and thus enhance the capabilities of the camera.

Claims 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squilla et al. in view of Aihara et al. and further in view of Steinberg et al. US 6,006,039.

Re claims 57- 58, the combination of the Squilla and Aihara references discloses all of the limitations of claim 53 above. However, although the Squilla reference discloses a wireless distributed computer network capable of allowing a camera to wirelessly transmit and receive ancillary data files it fails to state that the camera is capable of communicating with the data source through a hard-wired physical connection or through a removable storage device.

Steinberg discloses a method for configuring a camera through external means. Steinberg states that the camera (10) is capable of communicating with the PC (14) via a removable storage device (22) or through a hard-wired physical connection (wire 30) (col. 3, line 57-col. 4, line 15). Therefore, it would have been obvious for one skilled in the art to have been motivated to include a hard-wired physical connection and a removable storage device for allowing communication between a camera and a remote

device as disclosed by Steinberg in the system including a digital camera and an ancillary data module as disclosed by Squilla in view of Aihara. Doing so would provide a means for enabling communication between a camera and a remote device by means other than wireless communication in order to ensure that the connection will not be lost and the data will be exchanged without interruption.

(10) Response to Argument

Appellant's arguments regarding claims 1, 21 and 53 (Appeal Brief pages 17-18, 22-23, and 37) state that the Squilla reference fails to teach any sort of "on-line management procedures" in which ancillary data files are selected and downloaded as a result of "selection decisions that are able to be made in all instances only by said system user." The examiner respectfully disagrees. Squilla discloses that content information may be downloaded to a digital camera. Squilla specifically discloses that a user can view content information on a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (manual user selection) (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that ancillary data files are selected and downloaded through selection decisions that are capable of being made in all instances only by a system user (the camera of the first embodiment disclosed by Squilla allows a user to view and select ancillary data files for downloading through the use of a user interface 31). In addition, Squilla discloses that alternatively, a URL address for the

user selected data can be stored in the memory and the data may be downloaded via the internet at a later time (col. 5, lines 11-17). Thus, it can be seen that Squilla further discloses that selection decisions may be made in all instances prior to downloading the ancillary data files. In addition, the Examiner notes that although the Squilla reference states that "the personality file is used by the respective processors 76, 14 in the image server and the image spot to choose content data" (col. 6, lines 57-59), this portion of the Squilla reference is directed to a separate embodiment and thus is not applicable to the embodiment that has been cited to provide the teaching of claim 1. Therefore, the Examiner maintains that the Squilla reference discloses all of the limitations of claim 1.

Appellant's arguments regarding claims 1, 21 and 53 (Appeal Brief pages 19, 24 and 38) state that applicant's invention utilizes a manual "pull" technique, while the Squilla reference teaches an automatic "push" technique. The examiner respectfully disagrees. It is noted that the language of claim 1 does not disclose a "pull" technique. In addition, Squilla specifically discloses that a user can view content information on a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (manual user selection) (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that ancillary data files are selected and downloaded through selection decisions that are capable of being made in all instances only by a system user (the camera of the first embodiment disclosed by Squilla allows a user to view and select ancillary data files for downloading through the use of a user interface 31).

Appellant's arguments regarding amended claims 1, 21 and 53, (Appeal Brief pages 19-20, 24-25 and 39) state that the Squilla reference fails to teach that "said one or more ancillary data files being selected and downloaded through selection decisions that are able to be made in all instances only by said system user, said selection destinations being made in all instances prior to said download of said ancillary data files". The Examiner respectfully disagrees. Squilla discloses that content information may be downloaded to a digital camera. Squilla specifically discloses that a user can view content information on a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that ancillary data files are selected and downloaded through selection decisions that are capable of being made in all instances only by a system user (the camera of the first embodiment disclosed by Squilla allows a user to view and select ancillary data files for downloading through the use of a user interface 31). In addition, Squilla discloses that alternatively, a URL address for the user selected data can be stored in the memory and the data may be downloaded via the internet at a later time (col. 5, lines 11-17). Thus, it can be seen that Squilla further discloses that selection decisions may be made in all instances prior to downloading the ancillary data files. In addition, the Examiner notes that although the Squilla reference states that "the personality file is used by the respective processors 76, 14 in the image server and the image spot to choose content data" (col. 6, lines 57-59), this portion of the Squilla

reference is directed to a separate embodiment and thus is not applicable to the embodiment that has been cited to provide the teaching of claim 1. Therefore, the Examiner maintains that the Squilla reference discloses all of the limitations of claim 1.

Appellant's arguments regarding amended claims 1, 21, and 53 (Appeal Brief pages 20-21, 25 and 40) state that the Squilla reference fails to teach "a system user that makes downloading selection decisions with a camera device while the camera is currently in active communication on-line with a data source". The Examiner respectfully disagrees. Squilla discloses that content information may be downloaded to a digital camera. Squilla specifically discloses that a user can view content information on a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that ancillary data files are selected and downloaded through selection decisions that are capable of being made in all instances only by a system user (the camera of the first embodiment disclosed by Squilla allows a user to view and select ancillary data files for downloading through the use of a user interface 31). In addition, the examiner maintains that the Squilla reference discloses an active on-line bi-directional communication (wireless link 60) between a camera (24, 26) and an image spot (10) (col. 5, lines 1-8; figure 2).

Appellant's arguments regarding amended claims 1, 21 and 53, (Appeal Brief pages 21-22, 26-27 and 40-42) state that the Squilla reference does not teach integrating ancillary data files and captured image data to create a "new composite image". The Examiner respectfully disagrees. Squilla discloses ancillary data files (graphics, photos, etc.) being limited to one or more image data files that the imaging device (24) combines with images (col. 5, lines 1-13). Squilla further states that selected content data is stored and appended to or associated with captured image data (col. 5, lines 7-22). Therefore, it can be seen that Squilla teaches combining (appending or associating) downloaded ancillary data and a captured image to create a new composite image (content data is appended to or associated with captured image data and stored in a single image file).

Appellant's arguments regarding claims 11, 31 and 46, (Appeal Brief pages 27-28 and 33-34) state that the Squilla reference does not disclose ancillary data files that each include a data portion and a corresponding descriptor tag that is analyzed to identify, characterize, and categorize the ancillary data files. The Examiner respectfully disagrees. Squilla discloses that a user may view a list of transferred content that is indicative of the content and the user may select the desired content in order to add the content (ancillary data) to images captured by the camera (24) (col. 5, lines 1-22). In addition, Squilla discloses that a list indicative of the content that is included in the content files may be displayed (col. 5, lines 4-5). Therefore, it can be seen that Squilla discloses that the ancillary data files each include a data portion (graphics, photos,

audio/video) and a corresponding descriptor tag (the information regarding the content that is displayed as a list for user selection) that is analyzed to identify, characterize, and categorize a corresponding one of the ancillary data files.

Appellant's arguments regarding claims 15 and 35, (Appeal Brief pages 28-29) state that the Squilla reference fails to teach a system user that actively manages on-line management procedures to perform a data-source content review with a camera device while the camera is currently in active communication on-line with a data source as claimed by appellants. The Examiner respectfully disagrees. Squilla discloses that content information may be downloaded to a digital camera. Squilla specifically discloses that a user can view content information on a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (col. 5, lines 1-8). Therefore, it can be seen that Squilla discloses that data-source content review may be performed by a system user (the camera of the first embodiment disclosed by Squilla allows a user to view and select ancillary data files for downloading through the use of a user interface 31). In addition, the examiner maintains that the Squilla reference discloses an active bi-directional on-line management procedure (wireless link 60) between a camera (24, 26) and a data source (image spot 10) (col. 5, lines 1-8; figure 2).

Appellant's arguments regarding claim 47, (Appeal Brief pages 29-30) state that the Squilla reference fails to teach said off-line management procedure including said ancillary data module analyzing descriptors from said ancillary data files and coordinating corresponding off-line file management procedures by alternately utilizing both an automatic process and an interactive process with a system user. The Examiner respectfully disagrees. Squilla discloses that an ancillary data module (microprocessor 42) performs an off-line management procedure for the ancillary data files (graphics, photos, etc.) that have been downloaded from the data source (10), the off-line management procedure including the ancillary data module (42) analyzing descriptors from the ancillary data files and coordinating corresponding off-line file management procedures by alternately utilizing both an automatic process (there are inherently automatic processes performed by camera processors when a user selection is performed) and an interactive process with a system user, the off-line file management procedures including a file descriptor identification procedure by which the ancillary data module (42) categorizes the ancillary data files (graphics, photos, etc.) and the imaging device (24) updating camera menus to including the ancillary data files (graphics, photos, etc.) to enable a system user to utilize the ancillary data files (graphics, photos, etc.) (col. 4, lines 3-25; col. 4, line 54-col. 5, line 17).

Appellant's arguments regarding claim 52, (Appeal Brief page 30) state that the Squilla reference fails to teach an ancillary data module that is executed by an imaging device to actively support both and on-line management procedure and an off-line

management procedure. The Examiner respectfully disagrees. Squilla states that the ancillary data module may be implemented as a software program (col. 3, lines 42-46). In addition, the Squilla reference discloses that an ancillary data module (microprocessor 42) performs an off-line management procedure for the ancillary data files (graphics, photos, etc.) that have been downloaded from the data source (10), the off-line management procedure (col. 4, lines 3-25; col. 4, line 54-col. 5, line 17), and also performs an on-line management procedure (Squilla specifically discloses that a user can view content information on a list indicative of the content information and if the user wants to save data, acceptance is signaled through the user interface (31) and data is stored in the memory of the camera (col. 5, lines 1-8)).

Appellant's arguments regarding dependent claims 4-9, 13-14, 17, 24-29, 33-34, 37, 48 and 50, (Appeal Brief page 31) are based on their dependence on independent claims 1 and 21 therefore the responses given above regarding independent claims 1 and 21 also apply to dependent claims 4-9, 13-14, 17, 24-29, 33-34, 37, 48, and 50.

Appellant's arguments regarding dependent claims 2-3 and 22-23, (Appeal Brief pages 32-33) are based on their dependence on independent claims 1 and 21 therefore the responses given above regarding independent claims 1 and 21 also apply to dependent claims 2-3 and 22-23.

Appellant's arguments regarding claim 46, (Appeal Brief pages 34-35) state that the combination of the Squilla, Qian, and Aihara references fails to teach that an ancillary data module analyzes a descriptor tag and then responsively assigns a downloaded ancillary data file to one or several file categories in an imaging device, wherein the categories include a template category, an overlay category, a background category, an Internet web page category, and an instructions category. The examiner respectfully disagrees. The examiner notes that the language of claim 46 only requires that the downloaded ancillary data files need to be assigned to one of several file categories. Therefore, not all of the categories listed in claim 46 need to be taught in order to meet the limitations of the claim.

Squilla discloses all the limitations of claim 31 above. However, although Squilla discloses that ancillary data files may be transmitted to a camera and stored with captured images it fails to disclose that the ancillary data files include a background category or an Internet web page category.

Qian teaches both the creation of background files and the replacement of backgrounds in captured images (Abstract; col. 1 lines 43-53; claim 1.) Based on this, it would have been obvious to one of ordinary skill in the art at the time of the invention to include background files, and an associated category for them within the system as taught by Squilla, so that the user is provided with another ancillary data file merging option, in addition to templates and overlays, for the purpose of enhancing the images captured by the user for particular situations, as well as to expand the potential

functionality of the imaging device, all of which being found within an organized (categorized) format to facilitate their use.

Further, Aihara teaches Internet webpage files employed as ancillary data files (col. 9 lines 40-42, col. 10 line 17 – col. 12 line 36.) It would also have been obvious to one of ordinary skill in the art at the time of the invention to include the ancillary data files, and an associated category for them within the system as taught by Squilla and Qian, so that the user is provided with another ancillary data file merging option, in addition to templates, overlays, and backgrounds, for the purpose of enhancing the images captured by the user for particular situations, as well as to expand the potential functionality of the imaging device, all of which being found within an organized (categorized) format to facilitate their use.

Based on the teachings provided by Squilla, Qian, and Aihara disclosed above the examiner maintains that the combination of the references meets all of the limitations of claim 46.

Appellant's arguments regarding dependent claims 10, 19-20, 30, and 39-40, (Appeal Brief page 35) are based on their dependence on independent claims 1 and 21 therefore the responses given above regarding independent claims 1 and 21 also apply to dependent claims 10, 19-20, 30, and 39-40.

Appellant's arguments regarding dependent claims 18 and 38, (Appeal Brief pages 35-36) state that the Anderson reference fails to teach a "data source being

implemented as a computer in a distributed computer network" as claimed by the applicants. However, the examiner notes that the Squilla reference already provides this teaching. The Anderson reference is being provided to provide the teaching of an off-line management procedure. Therefore, the combination of the Squilla and Anderson references discloses all of the limitations of claims 18 and 38.

Appellant's arguments regarding dependent claim 53, (Appeal Brief pages 36-37) state that the Squilla reference fails to teach ancillary data files that are "limited" to "image data files". The Examiner respectfully disagrees. Squilla discloses ancillary data files (graphics, photos, audio/video clips, etc.) being limited to one or more image data files that the imaging device (24) combines with the image data to create a new composite image (col. 5, lines 1-13). The Examiner is giving the phrase "image data files" its broadest reasonable interpretation and therefore the Examiner maintains that the ancillary data files (graphics, photos, etc.) disclosed by Squilla constitute "image data files".

Appellant's arguments regarding dependent claims 12, 32, 49, and 54-55, (Appeal Brief page 42) are based on their dependence on independent claims 1, 21 and 53 therefore the responses given above regarding independent claims 1, 21, and 53 also apply to dependent claims 12, 32, 49, and 54-55.

Appellant's arguments regarding dependent claims 16 and 36, (Appeal Brief page 43) state that the Sarbadhikari reference fails to teach "said special instruction file being alternately formatted both as an embedded instruction file that is embedded in said selected ancillary data file and a discrete instruction file that is not embedded in said selected ancillary data file". The Examiner respectfully disagrees. Sarbadhikari discloses a system wherein an ancillary data module downloads a special instruction file that corresponds to a selected ancillary data file, said special instruction file including information that instructs said imaging device how to correctly utilize said selected ancillary data file, said special instruction file being formatted as an embedded instruction file that is embedded in said selected ancillary data file (col. 10 lines 43-50) and also as a discrete instruction file that is not embedded in said selected ancillary data file (col. 9 line 51 – col. 10 line 18; col. 10 lines 43-50).

Appellant's arguments regarding dependent claim 43, (Appeal Brief page 44) is based on its dependence on independent claim 21 therefore the responses given above regarding independent claim 21 also apply to dependent claim 43.

Appellant's arguments regarding claim 43, (Appeal Brief page 44) state that the rewriting disclosed by the Harada reference is not the same as deleting as disclosed in claim 43. The Examiner respectfully disagrees. Harada is found to teach the rewriting of camera programming upon detecting that a newer version has been downloaded (col. 6 line 28 – col. 7 line 7). The examiner maintains that the rewriting of a file is equivalent

to a deletion because the original file is ultimately replaced by a newer version of the file.

Appellant's arguments regarding dependent claims 44-45, (Appeal Brief pages 45-46) is based on its dependence on independent claim 21 therefore the responses given above regarding independent claim 21 also apply to dependent claims 44-45.

Appellant's arguments regarding claim 44, (Appeal Brief page 45) state that the cited references fail to teach special program instructions that directly enable or instruct an image device how to utilize ancillary data files. The Examiner respectfully disagrees. Silverbrook is found to disclose animation programming is well known in the digital imaging art (col. 4 line 64 – col. 5 line 6.) Berstis is found to disclose voice annotation programming is well known in the digital imaging art (fig. 3 indicator 304, col. 4 lines 5-8.) Qian teaches the both the creation of background files and the replacement of backgrounds in captured images are well known in the digital imaging art (Abstract; col. 1 lines 43-53; claim 1.), and Aihara also teaches Internet webpage files employed as ancillary data files (col. 9 lines 40-42, col. 10, line 17 – col. 12 line 36). The examiner maintains that a digital camera that has the capability of utilizing ancillary data files inherently includes programming instructions that enable the digital camera to utilize the ancillary data files.

Appellant's arguments regarding dependent claims 56-58, (Appeal Brief pages 47-48) is based on its dependence on independent claim 53 therefore the responses given above regarding independent claim 53 also apply to dependent claims 56-58.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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